

112TH CONGRESS
1ST SESSION

H. R. 2401

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. SULLIVAN (for himself, Mr. MATHESON, Mr. UPTON, Mr. WHITFIELD, Mr. SHIMKUS, Mr. WALDEN, Mr. LATTI, Mr. HARPER, Mrs. McMORRIS RODGERS, Mr. MCKINLEY, Mr. TERRY, Mrs. CAPITO, Mr. POMPEO, Mr. ROSS of Arkansas, Mr. GUTHRIE, Mr. KINZINGER of Illinois, Mr. BILBRAY, Mr. TURNER, Mr. DUNCAN of Tennessee, Mr. BUCSHON, Mr. DUFFY, Mr. ROSKAM, Mrs. MYRICK, Mr. OLSON, Mr. JOHNSON of Illinois, Mr. ROKITA, Mr. COSTA, Mr. HOLDEN, and Mr. ROGERS of Kentucky) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To require analyses of the cumulative and incremental impacts of certain rules and actions of the Environmental Protection Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency in Regu-
5 latory Analysis of Impacts on the Nation Act of 2011”.

1 **SEC. 2. COMMITTEE FOR THE CUMULATIVE ANALYSIS OF**
2 **REGULATIONS THAT IMPACT ENERGY AND**
3 **MANUFACTURING IN THE UNITED STATES.**

4 (a) ESTABLISHMENT.—The President shall establish
5 a committee to be known as the Committee for the Cumu-
6 lative Analysis of Regulations that Impact Energy and
7 Manufacturing in the United States (in this Act referred
8 to as the “Committee”) to analyze and report on the cu-
9 mulative and incremental impacts of certain rules and ac-
10 tions of the Environmental Protection Agency, in accord-
11 ance with sections 3 and 4.

12 (b) MEMBERS.—The Committee shall be composed of
13 the following officials (or their designees):

14 (1) The Secretary of Agriculture, acting
15 through the Chief Economist.

16 (2) The Secretary of Commerce, acting through
17 the Chief Economist and the Under Secretary for
18 International Trade.

19 (3) The Secretary of Labor, acting through the
20 Commissioner of the Bureau of Labor Statistics.

21 (4) The Secretary of Energy, acting through
22 the Administrator of the Energy Information Ad-
23 ministration.

24 (5) The Secretary of the Treasury, acting
25 through the Deputy Assistant Secretary for Environ-

1 ment and Energy of the Department of the Treas-
2 ury.

3 (6) The Administrator of the Environmental
4 Protection Agency.

5 (7) The Chairman of the Council of Economic
6 Advisors.

7 (8) The Chairman of the Federal Energy Regu-
8 latory Commission.

9 (9) The Administrator of the Office of Informa-
10 tion and Regulatory Affairs.

11 (10) The Chief Counsel for Advocacy of the
12 Small Business Administration.

13 (11) The Chairman of the United States Inter-
14 national Trade Commission, acting through the Of-
15 fice of Economics.

16 (c) CHAIR.—The Secretary of Commerce shall serve
17 as Chair of the Committee. In carrying out the functions
18 of the Chair, the Secretary of Commerce shall consult with
19 the members serving on the Committee pursuant to para-
20 graphs (5) and (11) of subsection (b).

21 (d) CONSULTATION.—In conducting analyses under
22 section 3 and preparing reports under section 4, the Com-
23 mittee shall consult with, and consider pertinent reports
24 issued by, the Electric Reliability Organization certified

1 under section 215(c) of the Federal Power Act (16 U.S.C.
2 824o(c)).

3 (e) TERMINATION.—The Committee shall terminate
4 60 days after submitting its final report pursuant to sec-
5 tion 4(c).

6 **SEC. 3. ANALYSES.**

7 (a) SCOPE.—The Committee shall conduct analyses,
8 for each of the calendar years 2016, 2020, and 2030, of
9 the following:

10 (1) The cumulative impact of covered rules that
11 are promulgated as final regulations on or before
12 January 1, 2012, in combination with covered ac-
13 tions.

14 (2) The cumulative impact of all covered rules
15 (including covered rules that have not been promul-
16 gated as final regulations on or before January 1,
17 2012), in combination with covered actions.

18 (3) The incremental impact of each covered rule
19 not promulgated as a final regulation on or before
20 January 1, 2012, relative to an analytic baseline
21 representing the results of the analysis conducted
22 under paragraph (1).

23 (b) CONTENTS.—The Committee shall include in
24 each analysis conducted under this section the following:

1 (1) Estimates of the impacts of the covered
2 rules and covered actions with regard to—

3 (A) the global economic competitiveness of
4 the United States, particularly with respect to
5 energy intensive and trade sensitive industries;

6 (B) other cumulative costs and cumulative
7 benefits, including evaluation through a general
8 equilibrium model approach;

9 (C) any resulting change in national,
10 State, and regional electricity prices;

11 (D) any resulting change in national,
12 State, and regional fuel prices;

13 (E) the impact on national, State, and re-
14 gional employment during the 5-year period be-
15 ginning on the date of enactment of this Act,
16 and also in the long term, including secondary
17 impacts associated with increased energy prices
18 and facility closures; and

19 (F) the reliability and adequacy of bulk
20 power supply in the United States.

21 (2) Discussion of key uncertainties and assump-
22 tions associated with each estimate.

23 (3) A sensitivity analysis.

1 (4) Discussion, and where feasible an assess-
2 ment, of the cumulative impact of the covered rules
3 and covered actions on—

4 (A) consumers;

5 (B) small businesses;

6 (C) regional economies;

7 (D) State, local, and tribal governments;

8 (E) local and industry-specific labor mar-
9 kets; and

10 (F) agriculture,

11 as well as key uncertainties associated with each
12 topic.

13 (c) METHODS.—In conducting analyses under this
14 section, the Committee shall use the best available meth-
15 ods, consistent with guidance from the Office of Informa-
16 tion and Regulatory Affairs and the Office of Management
17 and Budget Circular A–4.

18 (d) DATA.—In conducting analyses under this sec-
19 tion, the Committee—

20 (1) shall use the best data that is available to
21 the public or supplied to the Committee by its mem-
22 bers, including the most recent such data appro-
23 priate for this analysis representing air quality, facil-
24 ity emissions, and installed controls; and

1 (2) is not required to create data or to use data
2 that is not readily accessible.

3 (e) COVERED RULES.—In this section, the term “cov-
4 ered rule” means the following:

5 (1) The following published rules (including any
6 successor or substantially similar rule):

7 (A) “Federal Implementation Plans To Re-
8 duce Interstate Transport of Fine Particulate
9 Matter and Ozone”, published at 75 Fed. Reg.
10 45210 (August 2, 2010).

11 (B) “National Ambient Air Quality Stand-
12 ards for Ozone”, published at 75 Fed. Reg.
13 2938 (January 19, 2010).

14 (C) “National Emission Standards for
15 Hazardous Air Pollutants for Major Sources:
16 Industrial, Commercial, and Institutional Boil-
17 ers and Process Heaters”, published at 76 Fed.
18 Reg. 15608 (March 21, 2011).

19 (D) “National Emission Standards for
20 Hazardous Air Pollutants for Area Sources: In-
21 dustrial, Commercial, and Institutional Boil-
22 ers”, published at 76 Fed. Reg. 15554 (March
23 21, 2011).

24 (E) “National Emission Standards for
25 Hazardous Air Pollutants from Coal- and Oil-

1 fired Electric Utility Steam Generating Units
2 and Standards of Performance for Fossil-Fuel-
3 Fired Electric Utility, Industrial-Commercial-
4 Institutional, and Small Industrial-Commercial-
5 Institutional Steam Generating Units”, signed
6 by Administrator Lisa P. Jackson on March 16,
7 2011.

8 (F) “Hazardous and Solid Waste Manage-
9 ment System; Identification and Listing of Spe-
10 cial Wastes; Disposal of Coal Combustion Re-
11 siduals From Electric Utilities”, published at
12 75 Fed. Reg. 35127 (June 21, 2010).

13 (G) “Primary National Ambient Air Qual-
14 ity Standard for Sulfur Dioxide”, published at
15 75 Fed. Reg. 35520 (June 22, 2010).

16 (H) “Primary National Ambient Air Qual-
17 ity Standards for Nitrogen Dioxide”, published
18 at 75 Fed. Reg. 6474 (February 9, 2010).

19 (2) The following additional rules or guidelines
20 promulgated on or after January 1, 2009:

21 (A) Any rule or guideline promulgated
22 under section 111(b) or 111(d) of the Clean Air
23 Act (42 U.S.C. 7411(b), 7411(d)) to address
24 climate change.

1 (B) Any rule or guideline promulgated by
2 the Administrator of the Environmental Protec-
3 tion Agency, a State, a local government, or a
4 permitting agency under or as the result of sec-
5 tion 169A or 169B of the Clean Air Act (42
6 U.S.C. 7491, 7492).

7 (C) Any rule establishing or modifying a
8 national ambient air quality standard under
9 section 109 of the Clean Air Act (42 U.S.C.
10 7409).

11 (f) COVERED ACTIONS.—In this section, the term
12 “covered action” means any action on or after January
13 1, 2009, by the Administrator of the Environmental Pro-
14 tection Agency, a State, a local government, or a permit-
15 ting agency as a result of the application of part C of title
16 I (relating to prevention of significant deterioration of air
17 quality) or title V (relating to permitting) of the Clean
18 Air Act (42 U.S.C. 7401 et seq.), if such application oc-
19 curs with respect to an air pollutant that is identified as
20 a greenhouse gas in “Endangerment and Cause or Con-
21 tribute Findings for Greenhouse Gases Under Section
22 202(a) of the Clean Air Act”, published at 74 Fed. Reg.
23 66496 (December 15, 2009).

1 **SEC. 4. REPORTS; PUBLIC COMMENT.**

2 (a) PRELIMINARY REPORT.—Not later than January
3 31, 2012, the Committee shall make public and submit
4 to the Committee on Energy and Commerce of the House
5 of Representatives and the Committee on Environment
6 and Public Works of the Senate a preliminary report con-
7 taining the results of the analyses conducted under section
8 3.

9 (b) PUBLIC COMMENT PERIOD.—The Committee
10 shall accept public comments regarding the preliminary re-
11 port submitted under subsection (a) for a period of 90
12 days after such submission.

13 (c) FINAL REPORT.—Not later than August 1, 2012,
14 the Committee shall submit to Congress a final report con-
15 taining the analyses conducted under section 3, including
16 any revisions to such analyses made as a result of public
17 comments, and a response to such comments.

18 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) AUTHORIZATION.—There are authorized to be ap-
20 propriated to carry out this Act for fiscal year 2012—

21 (1) \$3,000,000 to the Department of Com-
22 merce, of which not more than \$2,000,000 shall be
23 for carrying out section 3; and

24 (2) \$500,000 to the Environmental Protection
25 Agency.

1 (b) OFFSET.—Effective October 1, 2011, section
2 797(a) of the Energy Policy Act of 2005, as amended by
3 section 2(e) of the Diesel Emissions Reduction Act of
4 2010 (Public Law 111–364), is amended to read as fol-
5 lows:

6 “(a) IN GENERAL.—There are authorized to be ap-
7 propriated to carry out this subtitle \$46,000,000 for fiscal
8 year 2012 and \$50,000,000 for each of fiscal years 2013
9 through 2016, to remain available until expended.”.

○